

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

FEB - 2 2012

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY JW DEPUTY

TOMAS NOEL GUEVARA,)
vs.)
Petitioner,)
DAVID MILLER, Warden,)
Respondent.)
) No. CIV-10-27-W

ORDER

On December 30, 2011, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this matter and recommended that the Petition for Writ of Habeas Corpus ("Petition") filed by petitioner Tomas Noel Guevara be denied. Guevara was advised of his right to object to the Report and Recommendation, see Doc. 29 at 27, but no objections have been filed within the allotted time.

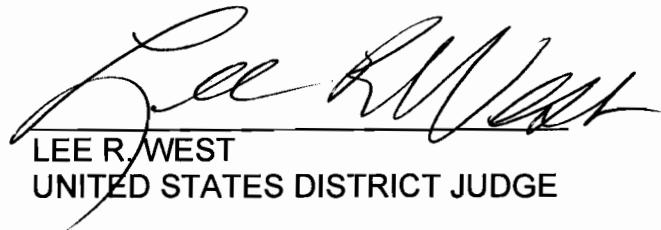
In the absence of an objection, the Court may review the Magistrate Judge's Report and Recommendation under any standard that the Court deems appropriate. E.g., Thomas v. Arn, 474 U.S. 140, 150 (1985)(Congress did not intend to require district court to review magistrate's factual or legal conclusions under any standard when neither party objects); Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir. 1991)(district court accorded considerable discretion with respect to treatment of unchallenged magistrate reports).

Accordingly, the Court has reviewed the Report and Recommendation only under a "clear error" standard. In doing so, the Court finds that Magistrate Judge Roberts has dealt with all issues presented in this matter fully and accurately, and the Court concurs with her suggested disposition of these issues.

The Court therefore

- (1) ADOPTS the Report and Recommendation [Doc. 29] filed on December 30, 2011;
- (2) DENIES the Petition [Doc. 1] file-stamped January 7, 2010;
- (3) DISMISSES as a party respondent the Attorney General of the State of Oklahoma because he is not a proper party to this action, e.g., Crowley v. Graham, 1999 WL 72123 (10th Cir. 1999)(cited pursuant to Tenth Cir. R. 32.1); and
- (4) ORDERS that judgment issue forthwith in favor of respondent David Miller, Warden, and against Guevara.

ENTERED this 2nd day of February, 2012.



LEE R. WEST
UNITED STATES DISTRICT JUDGE